

09.08.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1345 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.07.2023 in connection with Burtolla Police Station Case No.42 of 2019 dated 29.03.2019 under Section 20(b)(ii)(c) of the NDPS Act.

And

In Re: ***Panchu Das***

... .. Petitioner

Mr. Kazi Safiullah

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.

Report is placed on record. From the report it appears two out of ten witnesses have been examined.

We have considered the materials on record. Petitioner has suffered detention for more than four years. Two out of ten witness have been examined till date. Delay in the matter cannot be attributed to the petitioner. There is little possibility of the trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the ground of inordinate delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Reference in this regard may be made to ***Rabi Prakash vs. The State of Odisha***¹.

Therefore, the accused/petitioner, namely ***Panchu Das***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten

¹ SLP (Crl) No. 4169 of 2023. Order dated 13.07.2023

thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court, under the NDPS Act, City Sessions Court, Calcutta subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future.

In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)